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Fifty-second session
Item 15 of the provisional agenda

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Minimum humanitarian standards

Report of the Secretary-General prepared pursuant to Commission resolution 1995/29

Addendum

The present document contains comments submitted by the Governments of Norway, Romania, Sweden and Switzerland and by the Food and Agriculture Organization of the United Nations (FAO), the International Committee of the Red Cross (ICRC) and the Organization for Security and Cooperation in Europe (OSCE), as well as by the following non-governmental organizations: Arab Organization for Human Rights, International Federation Terre des Hommes, International Save the Children Alliance, Service, Peace and Justice in Latin America.

GE.96-10042 (E)

Norway

[Original: English]
[14 December 1995]

1. The Declaration of Minimum Humanitarian Standards which was adopted by a meeting of distinguished experts in Turku/Åbo (Finland) in 1990, addresses an issue of the utmost importance and urgency.

2. A large and growing number of States throughout the world are torn by internal strife and tensions which give rise to significant humanitarian concerns. Such situations, in which individuals are particularly vulnerable, often finding themselves in the cross-fire between more or less disciplined antagonists, fall into a legal grey-zone between international human rights law and international humanitarian law.

3. If a situation involving internal violence, disturbance or tension falls short of an armed conflict, international humanitarian law applies only to a marginal extent. In those very same situations, provided that they threaten the life of the nation, States may and usually do proclaim a state of public emergency, entitling them to derogate from a large number of basic human rights and fundamental freedoms. The important guarantees of due process and to a certain extent the humane treatment of detainees, are largely derogable rights according to the International Covenant on Civil and Political Rights. Other derogable rights include the right to liberty of movement and the right of everyone to leave any country, including his own. Article 19 of the Covenant on freedom of opinion is also derogable, as is article 27 on the rights of persons belonging to minorities.

4. Thus, when individuals are most urgently in need of protection, international law is at its weakest.

5. Nevertheless, there are some minimum guarantees from which no derogations are permissible, irrespective of the legal characterization of the situation and whether or not a state of public emergency has been officially proclaimed.

6. The Norwegian Government welcomes the resolution adopted by the twenty-sixth International Conference of the Red Cross and Red Crescent in Geneva on 8 December 1995, which "stresses [...] the utmost importance, in all circumstances, of humanitarian standards and the necessity to respect applicable human rights norms". The international community has thus recognized that minimum humanitarian standards, applicable in all circumstances, exist. There is, however, an urgent need to further define, develop and ensure the respect of those minimum standards, and this should, in the view of the Norwegian Government, be a priority task for the Commission on Human Rights.

7. In this respect, the 1990 Turku Declaration could serve to show the way forward, as it constitutes a commendable attempt at providing in a single instrument a comprehensive list of minimum humanitarian standards, thus shedding light upon the legal grey-zone into which situations of internal violence, disturbance, tension and public emergency fall.

8. The Declaration contains substantive standards of a general nature, which are not linked to any particular existing legal instrument. It combines elements of both international human rights law and international humanitarian law, addressing the basic needs of every individual.

9. The Declaration sets out standards applicable to all situations, thus obviating the need for legal definition of particular situations. Any attempt to limit the scope of application of a set of standards to certain situations would necessarily leave room for interpretation, and thus for disagreement as to whether or not the standards in question apply to a given situation.

10. The Declaration sets out relatively clear-cut rules of conduct, and it is indeed of vital importance that minimum humanitarian standards applicable to all persons in all situations be concise, precise and readily understandable to everyone.

11. The Norwegian Government is looking forward to further discussion within the Commission on Human Rights on the basis of the ideas and concepts contained in the Turku Declaration, with a view to the adoption of a United Nations declaration of minimum humanitarian standards.

12. With reference to paragraph 3 of Commission resolution 1995/29, according to which all States are invited to consider reviewing their national legislation relevant to situations of public emergency, the Norwegian Government is pleased to inform the Secretary-General of the following domestic developments.

13. An inter-ministerial committee appointed in February 1995 to review domestic legislation pertaining to situations of public emergency submitted its final report in October this year, in which it stressed the need to take into account not only applicable provisions of international law, but also recent international standard-setting developments, including the Turku Declaration. No inconsistency was found, although a thorough review of domestic legislation in the light of international standards lay beyond the mandate of the committee in question. The Government is, however, planning to undertake a more in-depth review of the consistency of legislation pertaining to emergency situations in the defence field with international standards in the course of 1996.

Romania

[Original: French]
[24 November 1995]

1. The text of the Declaration of Minimum Humanitarian Standards (E/CN.4/Sub.2/1991/55), mentioned in paragraph 4 of resolution 1995/29, should include a specific mention of the role of non-governmental organizations in the protection of human rights in situations of internal violence, disturbances and tensions, bearing in mind the particular importance attributed to them by international humanitarian law during periods of international and non-international armed conflict.

2. The Declaration of Minimum Humanitarian Standards could also contain a reference to the duty of States to ensure, both in time of peace and during periods of internal violence and disturbances, the widest possible dissemination of minimum humanitarian standards among all sections of society, particularly in the training of law enforcement officials, in schools and university establishments and in the media. Such a reference would be in accordance with the relevant provisions contained in the 1949 Geneva Conventions and in the Additional Protocols thereto, as well as with resolution 2675 (XXV) of the United Nations General Assembly, entitled "Basic principles for the protection of civilian populations in armed conflicts".

3. The Declaration of Minimum Humanitarian Standards should also contain, among its principles, a specific prohibition on the use, in situations of internal violence and disturbances, of certain weapons which may be deemed to be excessively injurious or to have indiscriminate effects (land-mines, booby traps, incendiary devices, etc.). Article 5 of the draft declaration could be amended and supplemented so as to express this principle.

4. Standards on the system of detention during situations of internal violence and disturbances might be supplemented with some of the principles contained in the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169 of 17 December 1979) and in the document entitled "Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" (resolution 37/194 of 18 December 1982, annex).

5. Although envisaged in article 10 of the draft declaration of minimum humanitarian standards, the protection of the child is incomplete as compared with the relevant provisions of article 38 of the Convention on the Rights of the Child and article 77 of Additional Protocol I to the Geneva Conventions, of 1977. Consequently, a revision of the above-mentioned article 10, in the light of the provisions of other international instruments regarding the protection of the child, would seem to be necessary.

6. The Declaration of Minimum Humanitarian Standards should include a separate article on the protection of women in situations of internal violence and disturbances, containing guarantees similar to those enshrined in article 77 of Additional Protocol I.

Sweden

[Original: English]
[15 and 18 December 1995]

1. Sweden welcomes the elaboration of the Declaration of Minimum Humanitarian Standards adopted at an expert meeting convened by the Institute for Human Rights in Turku, Finland in 1990. Sweden considers the Declaration to be a suitable tool to define specific standards applicable in all situations in order to strengthen the implementation of the norms of international humanitarian law and human rights law.

2. Sweden attaches great importance to the implementation and further elaboration of such standards. In this context, Sweden would like to recall that the twenty-sixth International Conference of the Red Cross and Red Crescent adopted a resolution which "stresses also the utmost importance, in all circumstances, of humanitarian standards and the necessity to respect applicable human rights norms".

3. It is Sweden's view that the principal strength of the Declaration is the fact that its substantive content, most of which can be found in or traced from international agreements, is now extended to cover all situations. This means that these standards have to be respected by all and have to be applied irrespective of how a conflict or a situation is defined. Therefore, Sweden believes that this should be reflected in the title of the declaration which could read "Declaration of Humanitarian Standards Applicable in All Situations".

4. Sweden notes with appreciation that article 5 reflects the content of basic principles of international humanitarian law and welcomes that the application of these principles is extended to cover all situations.

5. The fact that article 8 mentions "mothers of young children", and not exclusively "pregnant women", among persons who shall not be sentenced to death, is welcomed.

6. Article 10 highlights the need for care and aid that children require. Considering the nearly universal ratification of the Convention on the Rights of the Child, this article might be strengthened or redrafted as a reflection thereof. Even though article 10 involves increased protection for children between 15 and 18 as regards recruitment to armed forces, the content is still not satisfactory. Sweden considers it unacceptable that persons who in nearly all other circumstances are regarded as children can be recruited into armed forces and are permitted to participate in hostilities. It is Sweden's view that the article should stress - if necessary without specifying any age limit - that children should not be recruited into armed forces or allowed to participate in hostilities, etc.

7. Finally Sweden wants to stress the importance of article 18 which states, inter alia, "that nothing in the present standards shall be interpreted as restricting or impairing the provisions of any international humanitarian or human rights instrument".

8. The Declaration has been developed by an expert meeting, and it is therefore welcomed that Governments now have been invited to give their comments. Considering how the Declaration was first drafted, an expert panel might be asked to consider how comments submitted by Governments could be best utilized in light of the aim and purpose of the Declaration.

9. Sweden suggests that all States undertake to publish the Humanitarian Standards Applicable in All Situations, and disseminate them and make them known as widely as possible.

Switzerland

[Original: French]
[8 December 1995]

1. Although in principle their areas of application are different, international humanitarian law and international human rights law are complementary to the extent that they both seek to ensure respect for, and the dignity of, the human person. In addition, it is clear from an examination of international practice that human rights and international humanitarian law are applied concurrently in some situations. This trend seems likely to increase the interaction between these two systems.

2. However, despite this convergence, in view of the changing and increasingly complex nature of situations of internal violence, there is some degree of uncertainty in the applicability of these two systems, particularly in the case of situations which are halfway between peace and armed conflict. As has been made abundantly apparent by the events of recent years, there are serious gaps in the protection of the individual during situations of internal disturbances, crises and tensions, including latent or low-intensity internal conflicts; in such circumstances, international humanitarian law is not (yet) applicable and many provisions of international human rights law that are open to derogation may be restricted or even suspended in the event of exceptional public danger which threatens the very life of the nation and has been officially proclaimed (cf. art. 4 of the International Covenant on Civil and Political Rights). Under cover of such circumstances, those rights most essential to human dignity are frequently and seriously violated, both by State authorities and by armed individuals and groups.

3. There is therefore an urgent need to prepare a universal political declaration 1/ containing an irreducible core of those standards of humanity 2/ which are most essential to human dignity and which should be observed under all circumstances and at all times. In absolute terms therefore, these minimum standards of humanity, inspired by the binding international instruments of humanitarian law and human rights, as well as by the relevant international customary law, would form a framework of protection of universal application. The essential characteristic of these standards would be simplicity, ease of application, and the capacity to be respected - without discrimination, in any situation whatsoever - by any authority, any person or any group of persons, whatever their legal status. Such standards

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1/ The Universal Declaration of Human Rights of 1948 cannot play this role, mainly for the following reasons: its provisions do not cover humanitarian issues, but only human rights; among the human rights that it enumerates it does not state which are absolute rights and which are liable to derogation under the terms of article 29, paragraph 2 (possibility of restricting human rights under certain conditions).

2/ In a political declaration the term "standards" is preferable to "rules", while the expression "minimum standards of humanity" is preferable to "minimum humanitarian standards", since it covers both standards relating to humanitarian issues and to human rights.

should clearly not be interpreted as restricting or limiting the provisions of any instrument of international humanitarian law or one relating to human rights.

4. Consideration should be given to the possibility of including the following minimum standards of humanity in such a declaration: 3/

(a) Right to an effective remedy in the event of deprivation of liberty, including habeas corpus and the essential guarantees of a fair trial in criminal matters;

(b) Prohibition of summary and arbitrary executions and of the execution of pregnant women and any person who has committed a crime while under the age of 18;

(c) Prohibition of collective punishment;

(d) Obligation not to hinder humanitarian organizations in the performance of their humanitarian work;

(e) Prohibition of the deliberate deprivation of food, drinking water, health care and accommodation;

(f) Prohibition of any infringement of the rights of persons not involved in acts of violence;

(g) Prohibition of forced population transfers, unless their security so requires, and protection of displaced persons. 4/

5. In conclusion, for all the above-mentioned reasons, Switzerland, which was a co-sponsor of resolution 1995/29 adopted by the Commission on Human Rights on 3 March 1995, is fully committed to a declaration of minimum standards of humanity, which would be inspired by that adopted on 2 December 1990 by an expert meeting convened by the Institute for Human Rights, Åbo Akademi University, in Turku/Åbo, Finland.

Food and Agriculture Organization of the United Nations

[Original: English]
[21 November 1995]

FAO considers the Declaration of Minimum Humanitarian Standards to be an interesting initiative. We would suggest, however, that the declaration urge a stronger commitment by States to ensure the access of humanitarian

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3/ Cf. the eighth annual report of the Special Rapporteur on human rights and states of emergency, of 26 June 1995 (E/CN.4/Sub.2/1995/20 and Corr.1), annex I (Report of the Meeting of Experts on Rights not subject to Derogation during States of Emergency and Exceptional Circumstances).

4/ Such a standard would make a considerable contribution to solving the problems of refugees and of persons displaced within their own country.

organizations to populations in need of special assistance. Wording along the following lines could be inserted, for example, under article 15:

> "In situations where the inherent right to life is threatened due to natural or man-made causes by deprivation of access to basic necessities for survival (food, health care, shelter and sanitation), every effort shall be made to provide these necessities, including through humanitarian action by the international community if local and national efforts are insufficient".

International Committee of the Red Cross

[Original: French]
[16 November 1995]

1. First of all, it is worth recalling the objective of the Declaration:

> "to reaffirm and develop principles governing behaviour of all persons, groups, and authorities in situations of internal violence, disturbances, tensions and public emergency" (preamble, para. 9).

This objective may be attained by reaffirming:

> "minimum humanitarian standards which are applicable in all situations, including internal violence, disturbances, tensions, and public emergency, and which cannot be derogated from under any circumstances" (art. 1).

2. In our opinion, there are two conclusions to be drawn:

(a) The Declaration does not undermine existing law, in particular international humanitarian law. With its clearly developed treaties and extensive rules of customary law, international humanitarian law is a collection of legal obligations, accompanied by implementation mechanisms, which covers the situation of extreme violence known as war. It provides legal protection for persons who are victims of an armed conflict, whether of an international or non-international character. Its rules have been codified so as to deal with the particular problems raised by armed conflicts. Consequently, international humanitarian law is a special kind of law for conflict situations. In so far as the conditions of applicability are fulfilled, the 1949 Geneva Conventions, the Additional Protocols thereto of 1977, other treaties established specifically for armed conflicts and customary rules prevail over the legal rules contained in the Declaration. It is worth making this observation so as to head off any tendency to replace the binding rules of the various sources of international humanitarian law ("hard law") by an approach based on minimal principles or rules ("soft law"). However, the Declaration may certainly be useful in attempting to improve the observance of humanitarian standards in situations of violence which have been proclaimed on the territory of a State. As the applicability of article 3 common to the 1949 Geneva Conventions and/or the 1977 Protocol II relating to

the protection of victims of non-international armed conflicts is sometimes subject to controversy, the Declaration usefully refers to "minimum humanitarian standards" which must always be respected, since they are applicable in all situations;

(b) The Declaration is both a summary of the minimum standards applicable in any situation and a programme designed to strengthen the protection of individuals in situations of violence not covered by international humanitarian law. Accordingly, the Declaration represents a promising step forward, which should help to strengthen the power of the law in situations of internal violence and enhance the protection of victims in such situations. The Declaration is also an extremely useful tool for the teaching and dissemination of the international standards applicable in such situations.

Organization for Security and Cooperation in Europe

[Original: English]
[16 November 1995]

1. The Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE) submitted a draft compilation of CSCE/OSCE provisions relating to international humanitarian law*. Particular attention was drawn to chapter VIII, paragraph 34, of the Budapest Document where the participating States of the OSCE "[...] emphasize the potential significance of a declaration on minimum humanitarian standards applicable in all situations and declare their willingness to actively participate in its preparation in the framework of the United Nations."

2. It was indicated that the issue of minimum humanitarian standards was also mentioned in the Rapporteur's report of the latest OSCE Implementation Meeting on Human Dimension Issues (Warsaw, 2-19 October 1995): "In the light of the Budapest Document, some delegations referred to the need to elaborate minimum humanitarian standards applicable in all situations and suggested that substantive consideration should be given to this issue in the OSCE framework. The representative of the incoming OSCE Chairman-in-Office indicated his country's readiness to call an informal open-ended ad hoc meeting in Vienna and to undertake informal consultations on this proposal. It was also suggested that the ODIHR acts as a clearing-house for information on the Code of Conduct [of the Budapest Document] and other OSCE commitments in this respect."

3. It was also mentioned that the Office for Democratic Institutions and Human Rights was currently preparing the OSCE/ICRC Seminar on Implementation of International Humanitarian Law (Riga, 22-23 November 1995).

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* Available for consultation in the files of the Secretariat.

Arab Organization for Human Rights

[Original: English]
[5 December 1995]

1. In its preamble, resolution 1995/29 refers to the conduct of groups and individuals who resort to violence. However, the Declaration of Minimum Humanitarian Standards does not include provisions which regulate such conduct, putting all emphasis on the conduct of the authorities.

2. The reference in the preamble of the Declaration to the state of emergency should provide that such state should be rescinded as soon as the exigencies for its proclamation do not exist.

3. Article 3 (2) prohibited acts should be more detailed to include: severe physical and moral pressure, blackmail, sexual harassment, terrorism, attacks against means of transportation, hospitals, public utilities, etc.

4. In article 5 (1), add after the word "attacks", the words "violence, physical and moral pressure".

5. In article 7 (2), insert in the beginning the words "subject to the provisions of paragraph 1".

6. In article 8 (4), it is preferable to avoid setting a time-limit for carrying out death sentences. It may be better to relate its execution to the exhaustion of all judicial remedies provided for in local laws.

7. In some comments, as in the preceding paragraph, it may be better to refer to minors, leaving to the local legislation the determination of the age.

International Federation Terre des Hommes

[Original: French]
[4 December 1995]

IFTDH would like to see specific references made to the question of anti-personnel mines in the text of the Declaration, particularly in the light of recent international events such as the Review Conference of the States Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (1980), which was held in Vienna in September-October 1995.

International Save the Children Alliance

[Original: English]
[6 December 1995]

1. ISCA welcomes the adoption of a declaration of humanitarian standards that would apply in all situations. It is important, however, that the standards do not impede other initiatives to protect civilians from the

effects of armed conflict, in particular the current negotiations on an optional protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts.

2. There are several signs that the use of child soldiers is becoming increasingly common. According to the child soldier database of Rädda Barnen (Swedish Save the Children), children under the age of 18 years took part in 32 conflicts in 1994 or 1995. Tens of thousands of children have participated in these conflicts.

3. Consequently, ISCA considers that every effort should be taken to raise the minimum age of military recruitment to 18 years - the generally accepted limit for childhood, and the age limit for childhood established in the Convention on the Rights of the Child.

4. ISCA is particularly concerned about the drafting of article 10 in the Declaration of Minimum Humanitarian Standards. As it now stands, article 10 reinforces the impression that it is allowed to recruit children from the age of 15. The 15-year limit is already mentioned in three other humanitarian and human rights treaties (art. 38 of the Convention on the Rights of the Child, art. 77 (2) of Additional Protocol I to the 1949 Geneva Conventions, and art. 4 (3) of Additional Protocol II to the Geneva Conventions).

5. There appears to be a growing consensus among the world's Governments that the age of military recruitment should be higher than 15 years. This is reflected by the present negotiations on an optional protocol to the Convention on the Rights of the Child. It would therefore be highly unfortunate if the minimum humanitarian standards once again repeated the 15-year age limit. If agreement cannot be reached on a higher age, ISCA would suggest that the Declaration states a prohibition on recruitment and participation of children, without mentioning any age limit.

6. ISCA also recommends that article 10 makes specific reference to the Convention on the Rights of the Child, the rationale being that the Convention has been ratified by 181 States, and has therefore nearly reached universality.

7. ISCA proposes the following rewording of article 10:

> "Every child has the right to be respected and provided with protection, care and rehabilitation in accordance with the Convention on the Rights of the Child. Children who have not attained the age of 18 shall not be recruited in or allowed to join armed forces or armed groups or allowed to take part in acts of violence as defined in article 1 of this Declaration."

Service, Peace and Justice in Latin America

[Original: Spanish]
[13 November 1995]

We should like to express our satisfaction at the concern shown by the Commission on Human Rights at the increasing number of situations of internal violence leading to violations of human rights. We are particularly pleased at the fact that States have been invited to consider reviewing their national legislation relevant to situations of public emergency with a view to ensuring that it contains the basic legal principles that will guarantee that there will be no discrimination on grounds of race, colour, sex, language, etc.

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Addendum

The present document contains a summary of comments submitted by the Governments of Belize, Finland, Germany and Malta, as well as by the following non-governmental organization: Pax Christi International.

Belize

[Original: English]
[1 December 1995]

1. No review of Belizean legislation is necessary pursuant to the Declaration of Minimum Humanitarian Standards since all the matters covered in the Declaration are already legally protected under the Constitution of Belize, and other pieces of legislation.

2. Belize does not have a record of internal strife, civil war or violence.

Finland

[Original: English]
[20 December 1995]

1. The Government of Finland notes that the purpose of the (Turku) Declaration of Minimum Humanitarian Standards (E/CN.4/Sub.2/1991/55) is to list as minimum humanitarian standards the irreducible core of basic human rights and humanitarian norms applicable to everybody in every situation.

2. Protection of human rights through customary international law and international human rights treaties covers both times of peace and armed conflict. Humanitarian international law applied in conflict situations strengthens and supplements this protection. There might occur situations where the extent of human rights obligations is limited and the threshold for applicability of international humanitarian law not reached. In other situations the basic structures of a State may have collapsed or responsibility for prohibited measures otherwise cannot be imputed to a certain State.

3. Problems of this kind have been evident in recent conflicts. For instance the conflicts which occurred in Rwanda as well as in Bosnia and other parts of the former Yugoslavia demonstrate the variety of situations where a concise document of minimum humanitarian standards could more effectively contribute to protection of human rights and fundamental freedoms.

4. The Government of Finland finds that the protection of persons especially in situations described above could be intensified by adopting a specific declaration on minimum humanitarian standards applicable to all situations and respected by all parties to the conflicts.

5. Such a declaration should codify the key principles of protection of human rights and fundamental freedoms as they are expressed in customary international law, international human rights treaties and international humanitarian law. These standards should be so concisely phrased that they can be directly, immediately and efficiently applied in various situations.

6. It is essential that the standards of a declaration do not weaken the protection of the rights and freedoms guaranteed as absolute in other relevant international documents. Nor should they broaden the preconditions necessary for temporary suspension of other rights and freedoms in situations of public emergency. On the other hand, the development which has taken place for instance with regard to the abolition of the death penalty and to the key elements of fair trial should be taken into account in further discussion on the contents of a declaration to be adopted. The standards should also cover positive actions necessary to secure basic needs. They should be respected by, and applied to all persons, groups and authorities, irrespective of their legal status. Accordingly, attention should also be paid to the responsibility of the individual for violations of the said standards.

7. The Government of Finland supports the adoption of a declaration on minimum humanitarian standards on the basis of further elaboration of the Turku Declaration. The Commission should take necessary measures to this effect at its next meeting.

Germany

[Original: English]
[27 December 1995]

1. As co-sponsor of Commission resolution 1995/29 on minimum humanitarian standards, the Federal Republic of Germany gave its backing at an early stage to the objective of the Declaration, namely to reaffirm certain core rights of the civilian population affected by a conflict, which must be safeguarded under any circumstances.

2. International humanitarian law as laid down in the four Geneva Conventions and their additional protocols takes precedence in cases of international or non-international armed conflicts. The priority enjoyed by international humanitarian treaty law is also stated in article 18 of the Declaration of Turku, which reaffirms that nothing can be interpreted as restricting or impairing the provisions of any international humanitarian or human rights instrument.

3. In reality, however, situations may arise where the additional protocols, in particular the additional protocol relating to the protection of victims of non-international armed conflicts (Additional Protocol II) do not apply. Additional Protocol II sets the threshold for its applicability high as article 1 (2) expressly excludes from the scope of application situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts. For these situations, as well as borderline cases, the Declaration of Turku, which largely reflects the provisions embodied in Additional Protocol II, provides the civilian population concerned with the necessary protection.

4. In peacetime the human rights contained in the two Covenants of 1966 apply in full. However, article 4 of the International Covenant on Civil and Political Rights for example permits the suspension of these rights with certain restrictions in time of public emergency. The Declaration of Turku extends the catalogue of rights which cannot be derogated from and thus sets down standards for States which they should not fall short of when suspending human rights in a public emergency.

5. The provisions on public emergencies enshrined in the Basic Law of the Federal Republic of Germany, dealing with natural disasters, as well as internal and external emergencies, are in full compliance with the rule of law and guarantee the minimum standards referred to in resolution 1995/29.

6. Furthermore, the Federal Government advocates that the minimum age of 15 years for the participation of children in armed conflicts still contained in article 10 of the Declaration be raised to 18 years.

Malta

[Original: English]
[20 December 1995]

The Government of Malta submitted the following legislation regarding the period of public emergency, contained in section 47, subsections 2, 3 and 4 of the Constitution of Malta.

Section 47

"Subsection (2)

In this Chapter 'period of public emergency' means any period during which:

(a) Malta is engaged in any war; or

(b) there is in force a proclamation by the President declaring that a state of public emergency exists; or

(c) there is in force a resolution of the House of Representatives supported by the votes of not less than two thirds of all the Members of the House declaring that democratic institutions in Malta are threatened by subversion.

"Subsection (3)

(a) Where any proclamation of emergency has been made, the occasion therefore shall forthwith be communicated to the House of Representatives and, if the House is then separated by such adjournment or prorogation as will not expire within ten days the President shall by proclamation summon it to meet within five days and it shall accordingly meet and sit upon the day appointed by the proclamation and shall continue to sit and act as if it had stood adjourned or prorogued to that day.

(b) A proclamation of emergency shall, unless it is sooner revoked by the President, cease to be in force at the expiration of a period of fourteen days beginning on the date on which it was made or such longer period as may be provided under the next following paragraph, but without prejudice to the making of another proclamation of emergency at or before the end of that period.

(c) If at any time while a proclamation of emergency is in force (including any time while it is in force by virtue of this paragraph) a resolution is passed by the House of Representatives approving its continuance in force for a further period, not exceeding three months, beginning on the date on which it would otherwise expire, the proclamation shall, if not sooner revoked, continue in force for that further period.

"Subsection (4)

A resolution such as is referred to in paragraph (c) of subsection (2) of this section shall, unless it is sooner revoked by the House of Representatives, cease to be in force at the expiration of twelve months beginning on the date on which it was passed or such shorter period as may be specified therein, but without prejudice to the passing of another resolution by the House of Representatives in the manner prescribed by that paragraph at or before the end of that period."

Pax Christi International

[Original: English]
[19 December 1995]

1. Pax Christi International and the Unrepresented Nations and Peoples Organization regard the Declaration of Minimum Humanitarian Standards as an important step in the protection of human rights.

2. PXI and UNPO believe it is important that this Declaration be applicable to all circumstances of "internal violence", states of emergency, etc., including wars (declared or otherwise), counter-insurgency campaigns, and "police actions".

3. The rights contained in the Declaration should be respected regardless of compliance with the Declaration by the opposing side in the conflict.

4. In addition, the possibility should be created for declarations of adherence to be undertaken by non-members of the United Nations, including entities not recognized as States, regardless of their status.

5. PXI and UNPO would like to add the following suggestions:

Article 8, paragraph 4: Anyone sentenced to death shall have the right of appeal

Article 9: Anyone convicted shall have the right of appeal.